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CERTIFICATE OF MAILING UNDER 37 CFR 1.8

I hereby certify that the following documents, with respect to Ser. No. 10/627,342 to Barry et al., are being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 on this 25th day of May, 2004:


Response to Decision Refusing Status Under 37 CFR 1.47(a);

Copy of letter as evidence in support of response;

Copy of Certified Mail Receipt, and corresponding Return Receipt;

Request for one-month extension of time; and

Credit Card Payment Form for extension of time.


Mark Frederiksen



PATENT
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant : Barry et al.
Serial No. : 10/627,342
Title : Transfer and Positioning Apparatus for
Automated Conveyor System
Group Art Unit : 1743

RESPONSE TO DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

Mail Stop Petition
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

A Decision Refusing Status Under 37 CFR 1.47(a) was mailed February 26, 2004. Applicant was given two months to respond, correcting the noted deficiencies. In particular, the Petition Attorney indicated that the petitioners had not provided sufficient proof that a copy of the complete application was sent to the non-signing inventor. The Petitions Attorney then stated that the Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first hand knowledge of the details.

In this case the Petitioners are including both. More particularly, the undersigned attorney for Petitioner sent a letter dated March 16, 2004 to the non-signing inventor – Thomas Bybee – via Certified Mail, Return Receipt Requested, with a copy of the complete patent application enclosed. A copy of the letter is attached hereto. The letter was delivered to Mr. Bybee on March 18, 2004, as indicated in the copy of the Return Receipt, attached to the copy of the letter.

The non-signing inventor was therefore given the opportunity to review the complete application and sign the Declaration. The undersigned attorney also provided ample opportunity for affirmatively indicating his refusal to sign by: (1) returning a signed statement in an enclosed self-addressed envelope stating that the inventor refuses to sign, (2) telephone the undersigned attorney to indicate a refusal to sign, or (3) do nothing, and the absence of a response within 10 days of receipt of the documents would be presumed to be a refusal to sign. As of the date of this response (well beyond the 10 days set forth in the letter), no response has been received from Mr. Bybee.

It is believed that this evidence corrects the noted deficiency in the original Petition, and that all of the requirements of 37 CFR 1.47(a) have been met, and it is therefore requested that this Petition be granted.

A request for a one-month extension of time under 37 CFR 1.136(a) and a Credit Card Payment Form in the amount of \$110 for the associated fee is enclosed herewith.

If any further information is required to expedite this process, please feel free to contact the undersigned.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "George R. Nimmer".

George R. Nimmer
Registration No. 21,004
Attorney of Record
PO Box 252
Omaha, NE 68101-0252
(402) 393-0151



GEORGE R. NIMMER
PATENT ATTORNEY

PO Box 252
OMAHA, NE 68101-0252
(402) 393-0151

March 16, 2004

Mr. Thomas L. Bybee
10285 Grand Ave.
Omaha, NE 68134

Certified Mail
Return Receipt Requested

Re: (1) U.S. Pat. App. Ser. No. 10/626,466 - Specimen Carrier Transfer Apparatus;
(2) U.S. Pat. App. Ser. No. 10/627,342 - Transfer and Positioning Apparatus for
Automated Conveyor System; and
(3) U.S. Pat. App. Ser. No. 10/627,415 - Two-Axis Robot for Specimen Transfer.


Dear Mr. Bybee:

I represent Lab-InterLink with respect to the filing and prosecution of the above-identified patent applications. It is my understanding that my client has contacted you in the past with a request that you sign an Oath/Declaration and an Assignment for each of the above applications. I also understand that you have refused to respond to that request.

I am writing to make one last attempt to obtain the requested signatures, or to obtain a specific refusal to sign these documents. I am enclosing a copy of each of the above-identified patent applications, a Declaration for each application, and an Assignment for each application. If, after reviewing these documents, you maintain your intent to refuse to sign, please respond by either signing the "Refusal" enclosed herewith, or contact me directly (or leave a message on my answering machine) at the number above. I am enclosing a self-addressed envelope for either the signed Declarations and Assignments or the signed "Refusals".

If I receive no response from you within 10 days of receipt of these documents, I must take this silence to be a refusal to sign any of the documents.

Sincerely,


George R. Nimmer

Cc: Lab-InterLink

Enclosures - Patent applications, Declarations, Assignments, Refusal Slips, envelopes



7003 3110 0005 4323 4378

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03/16/2004

Sent To Thomas Bybee
Street, Apt. No.,
or PO Box No. 10285 Grand Ave.
City, State, ZIP+4 Omaha, NE 68134
PS Form 3800, June 2002 See Reverse for Instructions

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- Print your name and address on the reverse so that we can return the card to you.
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1. Article Addressed to:

Thomas L. Bybee
10285 Grand Ave
Omaha, NE 68134

COMPLETE THIS SECTION ON DELIVERY

A. Signature X Thomas Bybee ☐ Agent ☒ Addressee
B. Received by (Printed Name) Thomas Bybee C. Date of Delivery 3-18-04
D. Is delivery address different from item 1? ☐ Yes ☒ No
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PS Form 3811, August 2001

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